

BROOKINGS COUNTY COMMISSION MEETING

Tuesday, August 22, 2006

The Brookings County Board of County Commissioners met in regular session on Tuesday, August 22, 2006, with the following members present: Dennis Falken, Emil Klavetter, Mary Negstad, Donald Larson, and Deanna Santema.

CALL TO ORDER

Chairperson Falken called the meeting to order.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

CONSENT AGENDA

Chairperson Falken called for a motion to approve the Consent Agenda. Motion by Klavetter, seconded by Negstad, to approve the agenda for the August 22, 2006 Commission Meeting as amended: Adding item # 5A, an Information Request. Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye," Falken "Aye." Motion Carried.

Minutes: August 15, 2006 Commission Meeting.

Welfare Matters: Case # 06-121 for utilities was approved; Case # 06-039A for utilities was approved; Case # 06-122 for bus ticket was approved; Case # 06-119 for utilities was approved; Case # 06-123 for motel was approved.

Travel/Education: Joyce Caugherty to go to Watertown, SD on August 14, 2006 to work in the Codington County Office. Joyce Dragseth to go to Sioux Falls, SD on August 25-26, 2006 to attend the NCRAAO Board of Directors Meeting. Kristin Trana to go to Mitchell, SD on August 23, 2006 to attend the South Dakota Retirement System Authorized Agent Training. Ted Eggebraaten to go to Pierre, SD on August 31, 2006 to attend the SDLTAP Advisory Board Meeting. Kristin Trana to attend the "My Life in the Workplace" Seminar at the East Central Multi District on Monday nights from September 18, 2006 - November 20, 2006. Stephanie Vogel and Kristin Trana to attend "Oh, I Meant to Say" Seminar at the East Central Multi District on October 18, 2006.

ROUTINE BUSINESS

Weed and Pest Supervisor, Gary Heldt met with the board to discuss West Nile, Mosquito Misting, and Weed Spraying.

Zoning and Drainage Director, Robert Hill met with the board to discuss Wind Energy Systems, Nuisance Problems, the upcoming Public Utilities Commission and WAPA Meetings.

Emergency Management Director, Todd Struwe met with the board to discuss the LEPC Meeting and the upcoming Pandemic Exercise and Fall Conference.

Register of Deeds, Ida Slocum met with the board to discuss the NACo Convention and to thank the board for the opportunity to attend the convention.

Extension Agent, Mel Kloster met with the board to discuss the Brookings County Achievement Days, Soybean Rust Test Plots, and the upcoming South Dakota State Fair.

Sheriff, Martin Stanwick met with the board to discuss an Inmates Hospital Bill and the Food Service Contract.

Be it noted, the July 2006 Treasurer's Report was presented to the board.

Commissioner Larson updated the board on the importance of Meth Education and requested the board purchase an Informational CD on Meth Education. Be it noted, it was the consensus of the board to purchase the Informational CD on Meth Education.

Kelly Bakken presented the board with the Auditor's Report.

Be it noted, Register of Deeds statement of fees was filed in the County Auditor's Office collected for the month of July 2006 in the amount of \$18,742.00.

Be it noted, the Fire Premium Refund check from the Department of Public Safety was received by the Auditor's Office in the amount of \$68,324.93. It was disbursed on August 8, 2006 as follows:

Brookings Fire Department	\$46,268.17
Arlington Fire Department	\$1,288.95
Astoria Fire Department	\$261.26
Aurora Fire Department	\$3,087.65
Badger Fire Department	\$258.69
Bruce Fire Department	\$1,811.72
Elkton Fire Department	\$3,333.26
Estelline Fire Department	\$934.12
Lake Hendricks Department	\$805.63
Lake Sinai Department	\$1,288.20
Toronto Fire Department	\$509.15
Volga Fire Department	\$5,524.61
White Fire Department	\$2,953.52

Motion by Negstad, seconded by Santema, to approve the following Automatic Supplement for unanticipated expenses incurred and reimbursement made to Brookings County. Department: Brookings County Emergency Management; Amount: \$10,103.81; Reason: Program funding for 2005 DOJ/OJP LETPP Grant; Receipt # 96826: Line #22600X4296222. Roll Call Vote: Negstad "Aye," Santema "Aye," Klavetter "Aye," Larson "Aye," Falken "Aye." Motion Carried.

Motion by Klavetter, seconded by Larson, to approve the following Automatic Supplement for unanticipated expenses incurred and reimbursement made to Brookings County. Department: Commission; Amount: \$1,087.08; Reason: SDACC Reimbursement for NACo Annual Conference Housing; Receipt # 96879; Line #10100X4270111. Roll Call Vote: Santema "Aye," Klavetter "Aye," Larson "Aye," Negstad "Aye," Falken "Aye." Motion Carried.

REGULAR BUSINESS

Highway Superintendent, Ted Eggebraaten met with the board to discuss Highway Matters.

Motion by Larson, seconded by Santema, to approve and authorize Chairperson Falken to sign the Utilities Certificate, the Letting Authorization, the Right-of-Way Certificate, and Resolution # 06-37 for Federal Aid Bridge Replacement or Rehabilitation Program Resolution for County and Urban Projects on BRO 8006(42), Brookings County, PCN 6525. Roll Call Vote: Klavetter "Aye," Larson "Aye," Negstad "Aye," Santema "Aye," Falken "Aye." Motion Carried.

RESOLUTION # 06-37

FEDERAL AID BRIDGE REPLACEMENT OR REHABILITATION PROGRAM RESOLUTION FOR COUNTY AND URBAN PROJECTS

WHEREAS, Brookings County desires the replacement of the bridge hereinafter described:

STRUCTURE NUMBER AND LOCATION: Str. # 06-220-079 located 2.0 miles W. and 0.4 miles S. of White over Six Mile Creek.

AND WHEREAS, Brookings County is obligated and hereby agrees to provide proper maintenance as required by the Federal Highway Act as amended and supplemented thereto for project after construction is completed and to regulate or cause to be regulated the installation of utility facilities within the limits of the right-of-way of the proposed project in accordance with State and Federal requirements.

AND WHEREAS, Brookings County is obligated and hereby agrees to reimburse the State for all costs not reimbursable with Bridge Replacement Funds.

AND WHEREAS, the bridge is in need of replacement/rehabilitation for the following reasons:

1. The sufficiency rating is 35.2.
2. The bridge is not located on a County or Township designated Minimum Maintenance Road.
3. The bridge is located on a school bus route and a mail route.
4. The load carrying capacity of the existing bridge cannot be improved to carry legal load by rehabilitation of the existing bridge.

NOW THEREFORE BE IT RESOLVED:

That the South Dakota Department of Transportation be and hereby is authorized and requested to program for construction, in accordance with the "Secondary Road Plan" and the State's "Standard Specifications for Road and Bridges," the bridge replacement or rehabilitation project at the above described location. Items to be handled by State forces with Federal Participation will include hydraulic study review, foundations investigation (if necessary), plan reviews, and construction administration.

Estimated Cost of Project Including Engineering:	\$146,445.33
Federal Share (80%):	\$117,156.26
Local Share (20%):	\$ 29,289.07

Proposed Year of Construction: 2006

Vote of Commissioners/Council: Yes 5 No 0

Dated at Brookings, SD, this 22nd day of August, 2006.

Board of County Commissioners of Brookings County

Dennis Falken
Chairman

Janet K. Willmott
County Auditor

Motion by Negstad, seconded by Santema, to approve and authorize Chairperson Falken to sign the revised Easement for Use of County Road Right-of-Way Agreement. Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye," Falken "Aye." Motion Carried.

Motion by Santema, seconded by Klavetter, to approve and authorize Chairperson Falken to sign the Snow and Ice Removal Salt Agreement between the City of Brookings, Brookings County, and Mills & Miller, Inc., Brandon, SD. Roll Call Vote: Negstad "Aye," Santema "Aye," Klavetter "Aye," Larson "Aye," Falken "Aye." Motion Carried.

Emergency Management Director, Todd Struwe, Brookings County FSA, Steve Minor, and Extension Agent, Mel Kloster met with the board to discuss and distribute a Letter of Support and a Resolution # 06-38, a Resolution requesting the Governor's Declaration of an Agricultural Disaster in Brookings County. Motion by Larson, seconded by Santema, to approve and authorize Chairperson Falken to sign the Letter of Support and Resolution # 06-38. Roll Call Vote: Santema "Aye," Klavetter "Aye," Larson "Aye," Negstad "Aye," Falken "Aye." Motion Carried.

RESOLUTION FOR DECLARATION OF AGRICULTURAL DISASTER

Resolution number 06-38

WHEREAS, Brookings County South Dakota has suffered agricultural losses due to late freeze and frost, and drought beginning the spring of 2006 and lasting through July; and,

WHEREAS, Losses from these elements have been estimated by the appropriate federal and state agricultural agencies to be alfalfa, pasture lands, water quality, and other grain crops, and continues; and,

WHEREAS, the Brookings County Emergency Board has met and drafted Flash Situation Reports and/or FSA Damage Survey Reports for the effected area that substantiate these loses beginning March 1, 2006; and,

WHEREAS, the Brookings County Commission has been presented the appropriate materials to consider a disaster declaration, and has been asked to support such declaration;

NOW, THEREFORE, BE IT RESOLVED by the Brookings County Board of Commissioners at a regular meeting held on August 22nd, 2006, it is hereby requested of the Governor of the State of South Dakota to declare Brookings County an agricultural disaster area to enable producers affected by these adverse weather conditions to participate in disaster programs for the year 2006.

August 22, 2006

Dennis Falken
Chairperson of Brookings County Commission

August 22, 2006

Janet K. Willmott
Auditor of Brookings County

Emergency Management Director, Todd Struwe met with the board to discuss and distribute the County Rangeland Fire Protection Agreement from the South Dakota Department of Agriculture.

Commission Assistant/Human Resource Director, Stephanie Vogel met with the board to discuss and present Resolution # 06-39; a Resolution Urging Voters to Vote Against Amendment E: Judicial Accountability Initiated Law on the November 7, 2006 Election. Motion by Klavetter, seconded by Negstad, to approve and authorize Chairperson Falken to sign Resolution # 06-39; a Resolution Urging Voters to Vote Against Amendment E. Roll Call Vote: Klavetter "Aye," Larson "Aye," Negstad "Aye," Santema "Aye," Falken "Aye." Motion Carried.

RESOLUTION # 06-39

WHEREAS, a constitutional amendment (Judicial Accountability Initiated Law) will be submitted to South Dakota voters in November 2006, designated Amendment E; and

WHEREAS, Amendment E was drafted by a resident of California and the petitions were circulated primarily by paid out-of-state persons; and

WHEREAS, the Amendment E petition failed to get more than a few thousand signatures in California, and thus was never submitted to California voters; and

WHEREAS, South Dakota voters were told that Amendment E simply provided for a remedy for intentional judicial misconduct; and

WHEREAS, if approved by the voters, Amendment E would actually allow lawsuits against all South Dakota citizen boards, including county commissioners, school board members, city council members, planning and zoning board members, township board members, public utilities commissioners, professional licensing board members, jurors, judges, prosecutors, and all other citizen boards; and

WHEREAS, Amendment E would authorize and encourage jury nullification in South Dakota, which was previously rejected overwhelmingly by South Dakota voters in 2002; and

WHEREAS, Amendment E would prohibit summary judgment, a legal remedy currently available and used to quickly and inexpensively rid our courts of frivolous lawsuits; and

WHEREAS, Amendment E would permit convicted felons, whose convictions have been affirmed by our Supreme Court, to sue the prosecutors who prosecuted the felons, the jurors who voted to convict the felons, and the judges who sentenced the felons, thus burdening our courts and citizens with countless expensive and needless lawsuits; and

WHEREAS, the author of Amendment E has publicly stated that with the passage of Amendment E, Judicial Accountability Initiated Law members from across the country will "purposely drive to South Dakota...just for the privilege of getting a traffic ticket so you can demand a jury trial. I anticipate traffic courts to be among the first courts to all but totally close...", thus depriving South Dakota citizens of their constitutional right of access to our courts and making it clear that Amendment E is not intended to help cure any alleged problems with South Dakota courts; and

WHEREAS, if approved, Amendment E would establish a new entity to investigate complaints with an initial budget of two million six hundred fifty thousand dollars, plus the cost of a facility, with authority to hire as many employees as it deemed appropriate without legislative appropriation, consultation, review, or approval; and

WHEREAS, the South Dakota Constitution already provides for the Judicial Qualifications Commission, which hears complaints and investigates allegations of judicial misconduct, and operates very economically, with an average annual expenditure of eleven thousand five hundred fifty-nine dollars over the past ten years; and

WHEREAS, if approved, Amendment E would likely violate the federal Constitution, thereby subjecting South Dakota taxpayers to millions of dollars in damages and attorney fees; and

WHEREAS, Amendment E would be devastating to the South Dakota economy, harming economic development and driving existing businesses from South Dakota:

NOW, THEREFORE, BE IT RESOLVED, by the Brookings Board of County Commissioners, that the Commission strongly urges all South Dakota voters to protect our citizen boards, to protect our system of justice, to protect economic development, to protect all our citizens from frivolous lawsuits that would be authorized by the Judicial Accountability Initiated Law, and to vote against Amendment E.

Dated this 22nd day of August, 2006.

APPROVED BY THE COMMISSION:

Dennis Falken
Chair

ATTEST:

Janet K. Willmott
County Auditor

Commission Assistant/Human Resource Director, Stephanie Vogel met with the board to discuss Personnel Matters, Correspondence from Butler Machinery Co., on the

Generator Rental, the County Burial Report, the State Convention, the Eight County Sioux Valley District Meeting, the Generator Project Progress, and the Brookings County ID Cards.

Be it noted, the Board approved the following Personnel Action Notices: Promotion to Deputy Auditor: Krista Spence from \$12.56 to \$13.50. Reassignment to Accounts Payable Officer: Kelly Bakken from \$14.90 to 12.81.

COMMISSIONER'S OPEN DISCUSSION

Commissioner Santema reported on the Eight County Sioux Valley District Meeting and the East Central Mental Health Board Meeting.

Commissioner Klavetter reported on the BEDC Meeting and the Chamber Luncheon.

Commissioner Negstad reported on the Chamber Luncheon.

Commissioner Larson reported on the Growth Partnership Meeting, the upcoming Groundbreaking for the SDSU Research Park, the County Burial Report, the Highway Budget and Fuel Costs, and Drainage Concerns.

Commissioner Falken reported on the Chamber Luncheon, Wind Farm Meeting, and the upcoming 24/7 Sobriety Conference, the RSVP Banquet, and the Navitas Wind Farm Meeting.

EXECUTIVE SESSION

Motion by Santema, seconded by Negstad, to enter into Executive Session at 10:26am. Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye," Falken "Aye." Motion Carried. Chairperson Falken declared executive session over at 11:00am. Reason - Personnel and Contractual Matters. No action at this time.

ADJOURNMENT

There being no further business, Chairperson Falken declared the meeting adjourned until Tuesday, August 29, 2006

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Kelly Bakken
Brookings County Auditor's Office